

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

On Appeal to the Board of
Appeals and Interferences

Appellant(s) :	Ezawa et al.	Examiner:	Aravind K. Moorthy
Serial No. :	09/628,315	Group Art Unit:	2131
Filed :	July 28, 2000		
Title :	SYSTEM AND METHOD FOR COMMUNICATING BETWEEN SMART CARDS		

REPLY BRIEF ON APPEAL

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant files this paper in response to the Examiner's Answer ("Answer")
mailed on November 1, 2007. Further, Appellant requests an Oral Hearing.

I. Appellant's Response to the Examiner's Answer (page 3 § (6) Withdrawn Rejections)

The Examiner has kindly withdrawn the § 112, first paragraph, rejection of the claims.

II. Appellant's Response to the Examiner's Answer (pages 18-19 § (10) Response to Argument)

As noted the Appeal Brief: "to establish an anticipation rejection, the cited reference must teach every element of the claimed invention." "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

It appears that the Answer concedes that the cited reference—Ishiguro does not teach every element of the claimed invention.

The Answer admits that "Ishiguro does not describe or teach any two-way mutual updating of the older time with the newer time". (See Answer, page 18, second paragraph, first sentence). The Answer then notes that the claims as recited include two 'if-then' elements (See Answer, page 18, second paragraph, fourth sentence).

Apple ant notes that the two 'if-then' elements are:

"if the second sequence number is newer than the first sequence number by comparison of the respective embedded first and second trusted times, [then] setting the first sequence number to have a value of the second sequence number if the verification succeeds; and conversely,

if the first sequence number is newer than the second sequence number by comparison of the respective embedded first and second trusted times, [then] setting the second

sequence number to have a value of the first sequence number if the verification succeeds so that the older trusted time information embedded on one of two portable devices is mutually replaced with the newer trusted time information embedded on the other portable device.” See e.g. claim 1.

The Answer then asserts only one of the ‘if-then’ elements can be satisfied. (See Answer, page 18, second paragraph, fifth sentence).

The Answer then states “the Examiner agrees with Appellants that the second ‘if-then’ element is not satisfied [*by Ishiguro*] and that “the Ishiguro reference discloses [*only*] the first ‘if-then’ element.” (See Examiner’s Answer, page 18, second paragraph, sixth and seventh sentences).

Thus, it appears that the Answer concedes that Ishiguro does not disclose every element of the claimed invention, and does not show the identical invention “in as complete detail as is contained in the ... claim.”

Appellants again note that it is not sufficient for Ishiguro to show only one of the two ‘if-then’ elements” to anticipate the claims. To anticipate the claims, Ishiguro must, as previously noted, shows “the identical invention . . . in as complete detail as is contained in the ... claim.” and “the elements must be arranged as required by the claim,” that is show exactly the claimed arrangement or pair of ‘if-then’ elements. Unlike appellants’ claimed two-way updating, under Ishiguro’s disclosure the “device”(i.e., terminal 2) never updates the host (i.e. management center 4), even if as the Examiner finds that only one of the two “if-then” claimed elements is valid at a given instance.

For the foregoing reasons, the Examiner's rejection of claims 1-58 should be reversed.

III. Conclusion

For the reasons set forth herein, as well as for the reasons set forth in Appellant's Brief, Appellant respectfully requests reversal of the rejections and allowance of claims 1-58.

Respectfully submitted,

Dated: December 3, 2007

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